G. R. S. 58

Previous references.

G. Not.ⁿ No 4328 dt/o. 9.94
J263

(14)

1908.

(Courts)

File No. 158-07

Serial Nos. 1-5

Later references.

Cs 286-10; 1-5B.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-5

Part B. for Branches

SUBJECT.

Amount of Court fee levied in Suits for the possession of a fractional share of a part of an Estate. R. N. No 5 of 07.

Table of Circulation

1. From the Registrar, Chief Court. No 3853/224 dt/ 2.12-07.
States that in the event of the Dt & Sub-Courts of Shimoga, as those of the Munsiffs of Chitaldrug & Chickmagalur, the directions contained in G.O. No. 4328/J263 dt/ 10.9.94 is being observed and that the Munsiffs' Courts of Shimoga & Sagar in a few cases levied Court fees paid on the market-value of the part of the Survey No claimed, parties being probably ignorant of the lower rate.

2. To the Registrar, Chief Court, and the D.C., Chitaldrug No J223-24 dt/23.
Records Sheet No 1 and requests them to furnish their opinion as to the desirability of issuing a fresh notification with the modifications above.

GPB.-8,000—7-4-07

3. From the Registrar, Chief Court. No. 492/220 dt/ 23.1.08
States the G. Not.ⁿ No 4328/J263 dt/ 10.9.1894 is wrongly worded and that the words "shall not exceed 5 times such portion of the revenue" ought to be "shall not exceed the Court fee payable on 5 times such portion of the revenue

and request that the necessary corrections may be ordered to be made.

4. From the Registrar, Chief Court. No 5305/239 D/62-08 Sd/- with reference to Sl no 2, that the effect of the alteration proposed by him in Sl 3 is the same as that proposed by Govt and that the notification may be issued.

5. To the Compiler, Mysore Gaz. No 295-121 25.3.08

Issues a fresh notification containing the proposed modifications.

No 2295-2 D/25.3.08

to the Registrar, Chief Court,

forwarding copy of the above.

G.R.S. 11] 1907-08

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

C to File No. 158-07

FILE HEADING.

Amount of Court fee levied in suits for the possession of a fractional share of a part of an Estate.
R.A. Subject No 5 of 1907.

From

The Registrar, Chief Court of Mysore.

No. 3853/224 Dated 2/3 · 12 · 07 Received 4 · 12 · 1907.

Diary No. 9/1456	Enclos. nil Spare Copies.	Serial No. /

BRIEF ABSTRACT OF LETTER.

States that in the Courts of the Dist. judge & Subjudge of Shimoga, as well as in those of the munsiffs of Chitaldrug and Chickmagalur, the direction contained in Govt Notn No 4328/J 263 & 10.9.1894 is being observed, while in the Courts of the munsiffs of Shimoga and Sagar, in a few cases Court fee was levied paid on the market value of the part of Survey number claimed, the parties probably being unaware of the lower rate.

NOTES AND ORDERS.

1 Submitted with a draft order recording

Hes SW 13-12-07. 16/12/07 2 It is respectfully submitted that the wording of the Notification of 1894 is rather ambiguous. It was probably intended that the Court fee, payable in the case referred to therein should not

NOTES—First sheet.

GPB—30,000—20-3-06.

Serial No.

exceed the ad Valorem fee leviable under the Mysore Court Fees Regulation or an amount which is equal to five times the proportionate assessment and not that it should not exceed five times the proportionate assessment as stated in the notificatio

3 Submitted with a revised draft order.

Hez SN 19/12/07 20/12/07

4 Please put up the file relating to the notification dated 10th Sep 1894.

23.12.07 SN

5 as ordered by the Assistant Secretary in person, submitted with the Gazette of India containing the above Notification and also with a copy of the Indian Law Reports, Allahabad Series Vol XVI, containing a decision in a suit for pre-emption of separate plots of land not being a fractional share of a revenue paying unit. The notification referred to above, has been superseded by, and embodied in, clause 18 in Govt of India notification N° 4650 & 10.9.1889.

K Q

Hez 4/1/08 SN 6/1/08

6 The modification seems necessary to clearly what was intended, was not that the Court fee should not exceed five times the

NOTE—Contn sheet.

G. R. S. 12]
General and Revenue Secretariat.

G File No. 158 of 1907

Serial No.

proportionate assessment but that it should not exceed the fee chargeable on five times the proportionate assessment. The modification made is in accordance with that made in Madras and now in force there -

1 Draft order submitted.
Secy) 7.1.08 JCW

2 Draft may be approved. &
9 Dewan through (8th) 17/1/08 JCW 17.1.08

5461/17.1.1908

10 Rather than sanction by G.O (as proposed) a modification of the procedure prescribed by the Rules of 1894 it seems better to issue a fresh Rules in supersession altogether the Rules of 1894. It may be on the terms proposed in the draft G.O. which are in conformity with the rules of similar Rules of 1904. But before issuing it, it seems advisable to consult the Chief Court - Draft altered accordingly JCW 18/Jan/08

11 Issue as revised.
18.1.08. JCW

NOTE—Contn. sheet.

GPB—50,000—17-3-07

G. R. S. 12]
General and Revenue Secretariat.

To File No. 158 of 1907-08

Serial No.	
2	To the Registrar of the Chief Court of Mysore, "Deputy Commissioner, Chitaldrug District. No 2223-24 & 23.1.08. Records & reports and requests the Chief Court to favour Govt with their opinion as to the advisibility of issuing a fresh notification with the modifications as above.
3	From the Registrar of the Chief Court of Mysore. No 4921/270 & 23.1.08. States that the Mysore Govt. notification No 4328-g263 & 10.9.1894. is wrongly worded and that the words "shall not exceed 5 times such portion of the revenue" occurring therein ought to be "shall not exceed the Court fee payable on 5 times such portion of the revenue etc", and requests that the necessary correction may be ordered to be made.
1 ✓	The Mysore Govt notification of 10.9.1894 was issued on the lines of the Govt of India notification No 690 & 1.2.1884, a copy of which was received with the Chief Court letter No 3880-137 & 19.2.1894, and not on the lines of the later Govt's notification No 1746 & 4.4.89, as the Chief Court seems to think. May

NOTE—Contn sheet.

GPB—50,00017—3-07

G. R. S. 12]
General and Revenue Secretariat.

Cs File No. 158 of 1907-08

Serial No.

this be pointed out? Subs for orders.

Hez 25.1.08. Replys to the Jnt Proceedings of the 23rd Instant on the subject may be awaited

SN 27-1-08

13 Yes 28.1.08 JWW

14 From the Registrar of the Chief Court of Mysore. N° 5305/289 d 6.2.1908.

States in reply to SL N° 2 above, that the effect of the alteration proposed by him in SL 3 is the same as of that proposed by Govt. and that the notification maybe issued.

Hez 12/2/08.

14 Submitted with a draft notification Secy) 15.2.08. JWW

SN 14-2-08

15 Dewan through 18/2

5773/18.2.1908

16 Draft may be approved Hez 29/2/08

JWW 29.2.

18/2

JWW 18.2

8205/2.3.08

Draft approved.

17 Issue 28/3

JWW 23.3

24

5 To the Compiler, Mysore Gazette N° 2951 d 25.3.1908.

Issues a fresh notification containing the proposed modifications.

Copy to the Registrar, Chief Court N° 2952 d 25.3.08

NOTE—Contn sheet.

GPB—50,00017—3-07

SUBJECT No. 5.

Amendment of the Court Fees Regulation.

Mr. B. Lakshminaranappa, Chitaldrug Municipality.

Summary of discussion.—Whenever a suit is brought in respect of a portion of a survey number by a co-sharer, Court-fees are levied on the market value thereof on the ground that no kandayam is fixed for the same. Formerly under Government Order No. 4328—J. 263, dated 10th September 1894, the Court fee was being levied on five times the amount of the proportionate kandayam on the land. This has not been provided for in the present Court Fees Regulation. It is therefore requested that the necessary amendment may now be made.

Reply of Government.—The Government Order of 1894 has not been cancelled. There is no necessity for any amendment of the law.

No: 3853 / 2246 4/12

J. 1456 2

bb 15-8-07 sc No 1.

Bangalore, dated 2nd December 1907.

From

V.A. Rajaratna Mudaliar Esq.,

Registrar, Chief Court of Mysore.

To

C.S. Balasundaram Iyer Esq.,

Offg. Secretary to Government,

General & Revenue Departments.

Sir,

Adverting to the opinion of the Chief Court in regard to subject No.7 (Representative Assembly Subjects 1907), I am directed to state that, in answer to this Court's enquiry as to whether court fee is not levied in any courts in his Division in suits for a fractional share of a part of an estate, in accordance with the direction contained in Government Order No.4328-J. 263 dated 10th September 1894, the District Judge of Shimoga reports that in his court as well as in the courts of the Sub Judge of Shimoga and the Munsiffs of Chitaldroog and Chickmagalur, the said direction is being observed, while in the courts of the Munsiffs of Shimoga and Sagar, in a few cases court fee was paid on the market value of the part of the survey number claimed, the parties or their pleaders having been apparently unaware of the rule providing the lower method of calculation, viz., at 5 times the assessment payable thereon.

I have the honor to be,

Sir,

Your most obedient servant,

Registrar.

S.R.

G.R.S. 28]

3

cfs File No. 158-07
Serial No. 2

Diary No. of letter replied to 1158

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
( )

the 190

Date of issue 23-1-08

Signed by Mr K. Mylar Rao

READ—.

R.A. Subject No 5 of 1907 and the reply of Govt. thereto regarding the amendment of the Court fees Regulation so as to make provision for the levy of Courtfees on 5 times the amount of

ORDER THEREON.—No.

the proportionate assessment, in suits for the possession of a fractional share of a part of an estate, instead of on the market value thereof.

(~~Print in extenso~~)

(2) Letter No $\frac{3853}{224}$ dated the

over

paying annual revenue to Govt under a settlement which is not permanent

SUBJECT

GPB—7,000—1-3-07

2nd December 1907 from the Registrar of the Chief Court of Mysore, stating with reference to the above, that in the Courts of the District Judge and Sub Judge of Shimoga, as well as in those of the Munsiffs of Chitaldrug and ~~Chickmagalur~~, the direction contained in Govt. order No $\frac{4328}{J263}$ dated the 10th September 1894 is being observed, while in the Courts of the Munsiffs of Shimoga and Sagar in a few cases Court fee was paid on the market value of the part of the Survey number claimed, the parties probably being unaware of the lower rate. Notification -

Order thereon No. $\frac{J-2223-24}{Rls\ 158-07-2}$
dated 23rd January 1908.

Recorded. ~~with the remark~~ ~~that~~ The Chief Court is requested to ~~communicate~~ ~~direct~~ instruct all ~~the~~ Subordinate Courts to follow the ~~instruction~~ direction contained in the Govt. Notification referred

2 The Mysore Govt Notfn dt 10 Sep 1894 though based on the Govt of India Notfn of 1884 recommended by the Chief Court of the day, seems to be wrong by virtue of the words "Court fee" being adopted in lieu of "Just value". But the Govt of India Notfn of 1884 has been altered by para 8 of their subsequent Notfn No 4650 of 10th Nov 1887.

3 Under all the Civil Courts will be requested to favour Govt with their opinion as to the

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

to in the letter read above modified as hereunder.

In exercise of the powers conferred by Section 42 of the Mysore Court Fees Regulation No III of 1900, The Government of H.H. the Maharaja of Mysore are pleased to direct that when a part of an estate, paying annual revenue to Government under a settlement which is not permanent, is recorded in the Revenue Register as separately assessed with such revenue, the court fee payable on the institution of a suit for the possession of a fractional share of that part shall not exceed the fee chargeable under the above Regulation, on an amount which is equal to five times such portion of the revenue separately assessed on that part as may be rateably payable in respect of the share

P.T.O.

The advisability of issuing a fresh notification in the following terms:-

(In pursuance of the instructions contained in Mysore (Jud. Notification No. 4328 / 5263 dt 10 Sept 1894)

the value of the subject matter of a suit for the possession of, or to enforce a right of pre-emption in respect of, a fractional share of that part shall, for the purposes of the computation of the fee chargeable in the suit, be deemed not to exceed

Share.

Draft

VIII/ for Secretary.

To

The Registrar, Chief Court
of Mysore.

" Para 15 the Deputy Commissioner, Chitaldrug District for Communication to the R.A. Member Concerned

" Compiler Mysore Gazette with a copy of the modified notification for publication in the Mysore Gazette with Kannada Translation

Sd/-
18/6/30

Sd/- 21/6
for DP

No: 4921/270
Complied

J 1889 Ct's File No 1580/1
R.N. 3.

Bangalore 22nd January 1908.
23d

From,

V. A. Rajaratna Mudaliar Esq.,
Registrar, Chief Court of Mysore.

To,

C. S. Balasundaram Iyar Esq.,
Offg: Secretary to Government,
General and Revenue Depttts:

Sir,

III H.S. 18. 411

Adverting to Government Notification No: 4328-J-263 dated 10th September 1894 issued under Section 35 of the Court Fees Act, 1870, I am directed to state that it appears to have been framed on the same lines as the Government of India Notification No: 1746 dated 4th April 1889. But while it is laid down therein that "the value of the subject matter of a suit for possession of, or to enforce a right of pre-emption in respect of, a fractional share of that part shall, for the purposes of the computation of the amount of the fee chargeable in the suit, be deemed not to exceed five times such portion of the

revenue separately assessed on that part as may be rateably payable in respect of the share". Our Notification is differently worded and runs thus "The Court fee payable on the institution of a suit for the possession of a fractional share of that part shall not exceed five times such portion of the revenue separately assessed &c". This appears to be a mistake - The words "shall not exceed five times such portion of the revenue" ought to be "shall not exceed the Court fee payable on five times such portion of the revenue &c".

I am to request that the necessary correction may be ordered to be made -

I have the honor to be,

Sir,

Your most obedient Servant,

S Raghunatha Rao

Registrar.

GS

No. 5305/289.

J 2034

Bangalore, 5th February 1908

6th

Ch. File No. 158-07
Sec. No. 4.

From

A. Rajasatna Mudaliar Esqr.,
Registrar, Chief Court of Mysore.

To

C.S. Balasundaram Iyer Esqr.,
Offg. Secretary to Government,
General and Rev. Departments.

11
16/2/08

Sir,

With reference to the proceedings of Government No. J. 2223-24-Ch. 158-07-2 dated 23rd ultimo requesting the opinion of the Chief Court as to the advisability of issuing a fresh notification in the form received therewith, in lieu of the Mysore Government notification No. 43-28-J. 263 dated 10th September 1894, I am directed to state that the effect of the alteration now proposed would be the same as of that suggested by this Court in this Office No. 4921/270 dated 22nd ultimo and the

notification

notification proposed in the above
may be issued.

I have the honor to be,

Sir,

Your most obedient Servant,

[illegible]

Registrar.

[illegible]

8205

at 3 copies

G.R.S. 26]

2582

To File No. 158-07

Serial No. 5

Diary No. of letter replied to _____

Notification No. J-2951

Cls 158-07-5

General and Revenue Secretariat

( )

, *the* 190

To

& 25th March 1908

In exercise of the powers conferred by Section 42 of the Mysore Court Fees Regulation, No III of 1900, the Government of H.H. the Maharaja of Mysore are pleased to direct in supersession of the instruction contained in ~~Mysore~~ Government Notification No $\frac{4328}{9263}$ dated the 10th September 1894, that, when a part of an estate paying annual revenue to Government under a settlement which is not permanent, is recorded

over.

Date of issue 25-3-08

Signed by Sir C.S Bala Sundaram Iyer.

SUBJECT.

Translated
RK
27/3/08

in the Revenue Register as separately assessed with such revenue, the value of the subject matter of a suit for the possession of, or to enforce a right of pre-emption in respect of, a fractional share of that part shall, for the purposes of the Computation of the fee chargeable in the suit, be deemed not to exceed five times such portion of the revenue separately assessed on that part as may be rateably payable in respect of the share.

By order.

for Secretary.

List of enclosures

To the compiler Mysore Gazette for publication with Kannada translation.

No. F. 2952 - 25-58-07-8 & 25-3-08

Copied by

Examined by

for the Registrar, Chief Court

MGCPB—30,000—16-2-05

Dft HCS
14/2/08.